

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application.

CLAIMS

The Office Action dated February 24, 2006 rejected claims 1-23 and 28-41. New arguments in support of patentability are provided by this response. Claims 1-23 and 28-41 are currently pending in the application.

35 U.S.C. § 102

In the Office Action dated February 24, 2006, claims 1-6, 12-14, 17-19, 22-23, 28-31, 33-37, and 41 are rejected under 35 U.S.C. § 102(e), as being anticipated by Thiessen. (US Patent No. 5,495,412, hereinafter, "Thiessen.").

The Applicant respectfully disagrees with the characterization of Thiessen in the rejection under 35 U.S.C. § 102. The characterizing language in the Office Action mirrors the language of the Applicant's claims. While the Applicant agrees that there may be certain similarities between Thiessen and the claimed invention, the Applicant disagrees with many of the characterizations of Thiessen. To respond to the characterizations in the rejection on an element-by-element basis, the Applicant would have to describe in detail what Thiessen actually discloses for each recited characterized element of Thiessen, as compared to the claim language of the present disclosure that the Office Action virtually quoted to describe Thiessen. Considering the scope and length of Thiessen that has been characterized using Applicant's own claim language, responding to the characterizations of Thiessen on an element-by-element basis would require a lengthy response. The Applicant will focus on certain distinctions between Thiessen and the presently claimed invention.

The Applicant further emphasizes that the present rejection is under 35 U.S.C. § 102, and as such to overcome this rejection, the Applicant is only required to provide a distinction between the claimed invention and Thiessen. The Applicant will provide several distinctions.

The preamble to claim 1, as amended, recites a method for using at least one computer to process contingent commitments relating to at least one business venture involving one or more agents. While there may or may not be structural similarities between a computer-mediated decision-making group in which multiple agents utilize contingent commitments and “a computer-based method and apparatus for assisting multiple parties involved in complex negotiations in reaching agreement that optimizes the individual and overall benefit to the parties” (Thiessen, C1, L9-13), they are simply not the same thing as required under the anticipation rejection of 35 U.S.C. § 102.

Thiessen uses linear programming techniques to arrive at a theoretically “optimal” solution. Thiessen presupposes that such a solution exists and that it can be determined in a practical amount of time by linear programming methods. However, it is known that there are many situations in which linear programming is not a suitable method.

The present invention uses “contingent commitments” to arrive at computer-mediated decisions. To determine what is meant by a contingent commitment, such as recited in the preamble and other portions of claim 1, one must consider pages 6 to 9 of the specification that describe the contingent commitment module. These pages describe a computer-mediated decision-making process. The present disclosure relates to business ventures between one or more agents. Furthermore, claim 1 includes the language, “wherein the contingent commitments include at least one modal operator or quantifier”. The Applicant submits that there is no teaching in Thiessen to utilize contingent commitments, modal operators or quantifiers. The Office Action cites definitions of “modal” and “modal quantifier” that are related to the statistical concept of the mode of a distribution, but are not relevant to the present application. The present application does not use the phrase “modal quantifier”; the relevant phrase from the application is “modal operator” and this phrase has a well-defined meaning in the field of mathematical logic. For example, Wikipedia defines a modal operator as “a logical connective, in the language of a modal logic, which forms propositions from propositions. In general, a modal operator is formally characterized by being non-truth-functional, and intuitively characterized by expressing a modal attitude (such as necessity, possibility, belief, or knowledge) towards the proposition which it is applied to.” Another concise discussion of modal operators is available in a hypertext paper co-authored by John McCarthy and

Patrick Hayes in 1969 and published on Stanford University's website. Copies of the wikipedia entry and the section of the McCarthy/Hayes publication are attached to this response.

The Office Action further rejected claim 12 under 35 U.S.C. § 102 as being anticipated by Thiessen. The claim language of claim 12 contains similar, though not identical, limitations as claim 1. Therefore, for at least the reasons as described above, the anticipation rejection to claim 12 of Thiessen should be withdrawn.

The Office Action rejected claim 13 under 35 U.S.C. § 102 as being anticipated by Thiessen. Thiessen uses the words "evaluation" and "estimate" in describing his method of multi-party, multi-issue negotiation. However, Thiessen does not in any way address the problem of measuring the value of a quantity, nor does Thiessen in any manner describe a method for reducing the error associated with such measurement. As noted above, the present rejection is under 35 U.S.C. § 102, and as such to overcome this rejection, the Applicant is only required to provide a distinction between the claimed invention and Thiessen. The Applicant submits, that, for at least the above reasons, the anticipation rejection of claim 13 should be withdrawn.

Claims 20 and 21 depend from claim 13, and thereby include the limitations of claim 13. For at least that reason, the Applicant submits that the Thiessen rejection under 35 U.S.C. § 102 to claims 20 and 21 should be withdrawn.

Claim 14 has been rejected over Thiessen under 35 U.S.C. § 102. Claim 14, as amended, recites among other things a method for using one or more computing mechanisms by two trading parties to determine a mutually acceptable price for one or more trading items. Thiessen teaches "a computer-based method and apparatus for assisting multiple parties involved in **complex** negotiations in reaching agreement that optimizes the individual and overall benefit to the parties" (Thiessen, C1, L9-13, emphasis added) that differs fundamentally from the determining the mutually acceptable price of the present disclosure.

In particular, Thiessen uses "linear programming to solve an optimization problem for which the objective is to insure no loss in satisfaction for any party while minimizing the maximum gain achieved by any party" (Thiessen, C3, L33-36). The solution to this optimization problem is referred to by Thiessen as a "common base alternative"

(Thiessen, C3, L38-39) which provides a starting point “to facilitate the negotiations” (Thiessen, C3, L40).

In contrast, the present invention does not use (or need) linear programming techniques to determine a mutually acceptable price for one or more trading items. Furthermore, the mutually acceptable price is the end point of the process of Claim 14 whereas the common base alternative derived by Thiessen is the starting point of a negotiation process. In other words, Thiessen teaches away from Claim 14 of the present invention.

Therefore, for at least the reasons as described above, the anticipation rejection to claim 14 of Thiessen should be withdrawn. Claim 28 depends from claim 14, and thereby includes the limitations of claim 14. For at least that reason, the Applicant submits that the Thiessen rejection under 35 U.S.C. § 102 to claim 28 should be withdrawn.

The Office Action further rejected claim 22 under 35 U.S.C. § 102 as being anticipated by Thiessen. The claim language of claim 22 contains similar, though not identical, limitations as claim 14. Therefore, for at least the reasons as described above, the anticipation rejection to claim 22 of Thiessen should be withdrawn. Claim 23 depends from claim 22, and thereby includes the limitations of claim 22. For at least that reason, the Applicant submits that the Thiessen rejection under 35 U.S.C. § 102 to claim 23 should be withdrawn.

35 U.S.C. § 103

In the Office Action dated February 24, 2006, claims 8, 10, 11, 15, 16, 32, and 38-40 are rejected under 35 U.S.C. § 103, as being anticipated by Thiessen.

The Applicant respectfully disagrees with the characterization of Thiessen in the rejection under 35 U.S.C. § 103. The characterizing language in the Office Action largely mirrors the language of the Applicant’s claims. While the Applicant agrees that there may be certain similarities between Thiessen and the claimed invention, the Applicant disagrees with, and does not accept, many of the characterizations of Thiessen. To respond on an element-by-element basis to the characterizations in the rejection, the Applicant would have to describe in detail what Thiessen actually discloses for each

recited characterized element of Thiessen, as compared to the claim language of the present disclosure that the Office Action virtually quoted to describe Thiessen.

Considering the scope and length of Thiessen that has been characterized using Applicant's own claim language, responding to the characterizations of Thiessen on an element-by-element basis would require a lengthy response. Instead, the Applicant will focus on certain distinctions between Thiessen and the presently claimed invention.

Thiessen discloses a computer-based method and apparatus for interactive computer-assisted negotiations. Applicant contends that Thiessen does not suggest negotiating a value of a contingent commitment, wherein the contingent commitments include at least one modal operator or quantifier, as claimed herein.

The Applicant thereby submits that claims 7-11, and 32, that depend from claim 1, are allowable over Thiessen for the same reason as described above with respect to the 35 U.S.C. 102 rejection.

Applicant agrees with the Office Action that Thiessen fails to show many claimed features (see, e.g., paragraphs 37, 40, 43, 46, 49, 52, 55, 58, 61, and 64). The Applicant does not agree, however, (in the respective paragraphs that follow these paragraphs), that these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited since the claims have been previously amended to make the claims comply with method claim terminology, and as such the claims are indeed functional.

As per claims 15, 16, and 38-40, which depend from claim 14, the Applicant submits that Thiessen does not disclose, among other things, "performing a calculation using the one or more computing mechanisms to determine whether the determining the mutually acceptable price (also within the claim: for the one or more trading items) between the first agent and the second agent results in the mutually acceptable price", which language is in claim 14. Once again, Applicant submits that Thiessen is directed at "a computer-based method and apparatus for assisting multiple parties involved in complex negotiations in reaching agreement that optimizes the individual and overall benefit to the parties" (Thiessen, C1, L9-13) and does not suggest using one or more computers to determine a mutually acceptable price for one or more trading items.

The Office Action further states that “ 'complex' is a relative term” and that “Thiessen does use the example of two parties trading electricity (a trading item) for money, and using the ICANS system to negotiate a mutually acceptable price.” However, the example cited in the Office Action is a two party, **two issue** example problem, “in which the two issues are price of electricity sold to party Green and minimum flow for irrigation.” not a two-party, single issue problem.

Thiessen clearly teaches away from single-issue negotiation as defined in the present invention. Thiessen's SUMMARY OF THE INVENTION describes it as “a computer-based method and apparatus... which assists parties in real time toward achieving an optimal, mutually satisfactory agreement in dynamic, **multi-issue**, multi-party negotiations” (emphasis added).

CONCLUSION

In view of the forgoing remarks, Applicant respectfully requests reconsideration and allowance of the subject matter application including claims 1-23, and 28-41.

Respectfully Submitted,

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(Date)



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